



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

June 13, 1996

Ms. Sandra C. Joseph
Open Records Counsel/Disclosure Officer
Comptroller of Public Accounts
LBJ State Office Building
111 East 17th Street
Austin, Texas 78774

OR96-0950

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40151.

The Office of the Comptroller of Public Accounts (the "Comptroller") received a request for "a roster of all state employees in a database format. Specifically, we are seeking the full names of all state employees with the last names in a separate field or column from given names, a unique identifier such an employee number for each if such a number is used by the state, the employee's agency name, department if applicable, title, annual salary, gender, race or ethnicity (including Hispanic category), date of hire, date of birth, home city and home zip code (9 digit if available)." You inform us that approximately 62,000 state employees have chosen to keep their social security numbers and home addresses confidential, as provided in section 552.024 of the Government Code. You inform us that for payroll purposes, each employee is identified by his or her social security number. You ask whether the Comptroller must withhold from required public disclosure pursuant to section 552.117 of the Government Code the social security numbers, home city and home zip code of those employees who have chosen to keep information confidential pursuant to section 552.024 of the Government Code.

Section 552.117 states as follows:

Information is excepted from [required public disclosure] if it is information that relates to the home address, home telephone number, or social security number, or that reveals whether the following person has family members:

(1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024; or

(2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioner under Section 51.212, Education Code.

We begin with the social security numbers, which you say are the only numbers the Comptroller uses to identify employees. We conclude that section 552.117 applies to these numbers. Thus, the Comptroller must withhold from the public the social security numbers of those employees who at the time the Comptroller received this request had elected to keep their numbers confidential in accordance with section 552.024 of the Government Code. *See* Open Records Decision No. 530 (1989).

As for those employees who had not elected to keep confidential their social security numbers pursuant to section 552.024, we note that social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 of the Open Records Act on the basis of that federal provision. We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the Comptroller pursuant to any provision of law, enacted on or after October 1, 1990.

Turning to the home city and zip code of each employee who has made the section 552.024 election to keep the employee's home address confidential, we conclude that section 552.117 applies to such information. Section 552.117 applies to an employee's "home," rather than simply a street, address, suggesting the statute was intended to cover all of the information that constitutes a home address, including the city and zip code. Moreover, we believe that an employee who has elected to keep his or her home address confidential would expect that this information would be kept confidential, even though it constitutes only a part of that employee's home address. Consequently, we conclude that the Comptroller must withhold from the requestor the home city and zip code of those employees who at the time the Comptroller received the request had made the section 552.024 election to keep the employee's address confidential.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", with a long horizontal flourish extending to the right.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 40151

Enclosure: Submitted document

cc: Mr. David Crowder
Reporter
The El Paso Times
P.O. Box 20
El Paso, Texas 79999
(w/o enclosure)